

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

LOVES ADULT FAMILY HOME

Employer

and

Case 19-RC-14872

SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 775,

Petitioner

DECISION AND ORDER

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board. Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned. Upon the entire record¹ in this proceeding, the undersigned makes the following findings and conclusions.²

I. SUMMARY

The Employer is engaged in the business of providing care for seniors and people with disabilities, including dementia, at its family home located in Yakima, Washington. The issues in this case involve, among others, whether the Employer meets the Board's jurisdictional standards for assertion of jurisdiction in this case, and whether the petitioned-for unit of caregivers includes more than one employee. Although served with a Notice of Hearing in this case, the Employer did not show up at the hearing. Petitioner, in contrast, was present and provided information bearing on the two issues.

I conclude that the petition should be dismissed as, although it appears the Board retains jurisdiction over the Employer, the petitioned-for-unit is comprised of only a single employee and it is the Board policy not to certify one person units.

Below, I have provided a section setting forth the brief record from the hearing in this matter. Following the "Record Evidence" section is my analysis of the applicable legal standards in this case, my conclusion, and an Order dismissing the petition.

¹ Neither Employer nor Petitioner filed briefs.

² The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

II. RECORD EVIDENCE³

The Employer operates a residential care facility or family home in Yakima, Washington, where it provides care for seniors and people with disabilities, including dementia. These individuals apparently live at the Employer's facility 24 hours per day, possibly 7 days a week. At the time of the hearing, the Employer had approximately 5 or 6 residents for whom it provided care. The Employer supposedly receives \$2500 per month from each of the residents, and may also receive "state money" for two residents. It is not clear whether the money from the State is in addition to or part of the \$2500 the Employer receives for each resident.⁴ The limited record further revealed that the Employer purchases its supplies and medical equipment from vendors located outside the State of Washington.

Three individuals provide care to residents in the Employer's home. Those three are: Lionel Perry, Koreen Perry, and Jeannie Johnson. Lionel and Koreen Perry are married and one or both of the Perrys own the Employer's operations. Further, Petitioner's information is that either or both of the Perrys have authority to hire and fire and/or authority to discipline Johnson.

III. LEGAL ANALYSIS

Petitioner contends that I must direct an election because the Perrys and Johnson are employed by the Employer in the petitioned-for-unit of caregivers, which on its face is an appropriate unit.

Initially, I recognize that in any case where an employer refuses, on reasonable request by a Board agent, to provide information relevant to the Board's jurisdictional determination, jurisdiction will be asserted without regard to whether any jurisdictional standard is shown to be satisfied. *Tropicana Products*, 122 NLRB 121, 123 (1959); *Major League Rodeo, Inc.*, 246 NLRB 743 (1979); and *Continental Packaging Corp.* 327 NLRB 400 (1998).

Under Section 2(3) of the Act, "any individual employed by a parent or spouse," is excluded from coverage under the Act. Thus, Petitioner is effectively seeking to represent a one-person unit and there is no evidence to suggest that the Employer intends to hire additional caregivers. Inasmuch as it is contrary to Board policy to certify one-person units, I decline to direct an election in the petitioned-for-unit. *San Francisco Art Institute*, 226 NLRB 1251, 1252, (1976). See also, *Copier Care Plus*, 324 NLRB 785 (1997); *Mt. St. Joseph's Home for Girls*, 229 NLRB 251, 252 (1977).

IV. CONCLUSION

On the basis of the foregoing, and the record as a whole, I shall dismiss the petition.

³ I take administrative notice of the fact the Regional Office issued a subpoena duces tecum to the Employer seeking documents relating to commerce information. As noted above, the Employer did not appear at the hearing. As a result, record evidence was limited to that proffered by the Petitioner.

⁴ The hearing officer stated on the record that the Regional office, prior to the hearing, had spoken with a Washington State agency representative who reported that the Employer had received approximately \$225,000 from the State of Washington over a nearly two-year period between August 2004 and July 2006.

